

**STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE**  
45 Fremont Street, 24th Floor  
San Francisco, California 94105

**NOTICE OF ADDITION TO RULEMAKING FILE**

**REG-2006-00009**

**April 24, 2008**

On May 18, 2007 the Insurance Commissioner issued a Notice of Proposed Action, proposing the adoption of regulations concerning disability income insurance. The Notice was published in the California Regulatory Notice Register on May 18, 2007. On April 8, 2008 the Insurance Commissioner issued a Notice of Availability of Revised Text for the proposed regulations. The proposed regulations are set forth as California Code of Regulations ("CCR") Title 10, Chapter 5, Subchapter 2, new Article 2.2, Sections 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, and 2232.45.5, and in amendments to CCR Title 10, Chapter 5, Subchapter 3, Article 12, Disability Insurance Advertisements, Section 2536.2.

**PUBLIC COMMENT INVITED**

The Commissioner intends to add to the rulemaking file the following additional material:

1. The Hartford's Broker/Employer Brochure, titled "Disability Literacy Study: Unintended Exposure: The Surprising 'Big Gamble' Employees Take Every Day," provided to brokers or employers/policyholders presale and postsale
2. The Hartford's Employee Brochure: "Income Protection for Long-Term Disabilities," provided to employees/certificate holders pre- and post-enrollment
3. The Hartford's Employee Brochure: "Income Protection for Short-Term Disabilities," provided to employees/certificate holders pre- and post-enrollment
4. The Hartford's Benefit Highlight Sheets: "Disability Benefit Highlights," "Long-Term Disability Benefit Highlights," and "Short-Term Disability Benefit Highlights," provided to employees/certificate holders pre-enrollment (sample policyholder name redacted)
5. The Prudential Insurance Company of America's flyer (policyholder's name redacted), form number IFS-A123674 Ed. 0906 "Disability Insurance Can Help Your Employees When They Need Help Most," provided to employees of group policyholder
6. The Prudential Insurance Company of America's Custom Enrollment Material for Group "Long Term Disability Insurance" (policyholder's name and rate information redacted), forms IFS-A091258 Ed. 3/2005 ECEd.5.2006-1904 EXP.11.2007 and GL 2005.055 Ed. 3/2005 ECEd.5.2006-0973 EXP.11.2007
7. The Prudential Insurance Company of America's Custom Enrollment Material for Group Non-Exempt Employees "Long Term Disability Insurance" (policyholder's name and rate information redacted), forms IFS-A091258 Ed.3/2005 ECEd.5.2006-1905 EXP.11.2007 and GL.2005.055 Ed.3/2005 ECEd.5.2006-0974 EXP.11.2007

8. The Prudential Insurance Company of America's Custom Enrollment Material for Group "Short Term Disability Insurance" and Group "Long Term Disability Insurance" (policyholder's name and rate information redacted), forms IFS-A091258 Ed.3/2005 ECEd.2.2006-1959 EXP.8.2007 and GL.2005.055 Ed.3/2005 ECEd.2.2006-0668 EXP.8.2007
9. Reliance Standard Life Insurance Company Proposal of Service for Group Long Term Disability insurance, provided to employers presale (policyholder's name, broker's name, and rate information redacted)
10. Reliance Standard Life Insurance Company Proposal of Service for Voluntary Disability Income Protection Proposal Summary, for group disability income insurance, provided to employers presale (policyholder's name, broker's name, and rate information redacted)
11. Reliance Standard Life Insurance Company brochure for employees, "Reliance Standard Voluntary Plans Voluntary Disability Income Protection Insurance," form RS 2165 (4/06)
12. Liberty Mutual Group Insurance "Group Benefits" brochure, provided to employers
13. Liberty Mutual Group Insurance "Long Term Disability Insurance" brochure, provided to employers
14. Excerpt from Liberty Mutual Long Term Disability policy, form numbers DOC3-LTD-0003 and DOC3-LTD-0012.05 showing how the monthly benefit is figured, with list of offsets
15. Excerpt from Liberty Mutual Short Term Disability policy, form numbers DOC3-STD-0001 and DOC3-STD-0002.05 showing how the monthly benefit is figured, with list of offsets
16. The Guardian Life Insurance Company of America's marketing materials, forms 2003-6904, Pub 2758N 2003-2269, Pub 27580 2003-2203, 2002-5755, 2002-5757, 2002-5756, 2001-21 (12/99), 2002-1680 (3/02), 2002-1681 (3/02), 2002-1677 (3/02), 2002-1678 (3/02), 2002-1679 (3/02), Pub 3255 (8/00) 99-1999, "Sample Short Term Disability Program Benefit Illustration," and "Sample Long Term Disability Program Benefit Illustration"
17. Standard Insurance Company "Voluntary Long Term Disability Insurance" advertisement, form number GP190-LTD/S399, showing how benefits are reduced by offsets, provided to employees
18. E-mail from Cassie Springer-Sullivan to Nancy Hom dated February 7, 2008 containing legal analysis concerning permanent disability offsets (with names of parties in litigation redacted) and a copy of Carstens v. U.S. Shoe Corporation's Long-Term Benefits Disability Plan (2007) 520 F. Supp.2d 1165
19. E-mail from Cassie Springer-Sullivan to Nancy Hom dated February 19, 2008 containing legal analysis concerning ERISA
20. E-mail from Cassie Springer-Sullivan to Nancy Hom dated February 19, 2008 containing legal analysis concerning involuntary retirement and the Kalvinskis case
21. Settlement Agreement in Association of California Life & Health Insurance Companies, et al. v. Garamendi, Sacramento County Superior Court Case #05CS01668, dated July 21, 2006, and Amendment to Settlement Agreement in Association of California Life & Health Insurance Companies, et al. v. Garamendi, Sacramento County Superior Court Case #05CS01668, dated July 21, 2006

22. U.S. Social Security Administration Office of Policy Annual Statistical Supplement, 2007 “Old-Age, Survivors, and Disability Insurance” “Benefits Awarded, Disabled Workers, Table 6.C1 Number and percentage distribution, by monthly benefit and sex, 2006, Table 6.C2 Number, average age, and percentage distribution, by sex and age, selected years 1957-2006, and Table 6.C7 Number of applications, awards, ratio of awards to applications, and awards per 1,000 insured workers, selected years, 1960-2006,” from [www.socialsecurity.gov](http://www.socialsecurity.gov) website
23. E-mail dated July 31, 2007 from Ted Angelo to Nancy Hom concerning a typographical error in public comments, and Nancy Hom’s response dated August 1, 2007
24. Eight-page print-out from the State of California Employment Development Department [www.edd.ca.gov](http://www.edd.ca.gov) website titled “Disability Insurance” regarding eligibility and benefits

Accordingly, pursuant to the provisions of California Government Code Section 11347.1, the Commissioner is soliciting written public comment on these documents.

The above listed documents will be available for public comment and inspection from April 24, 2008 through May 9, 2008. The documents may be inspected between the hours of 9:00 a.m. and 4:00 p.m., by arrangement with the contact person listed below, at the Department’s offices at 45 Fremont Street, 24th Floor, San Francisco, California 94105.

## CONTACT PERSON

All written comments submitted in response to this Notice and all general or substantive questions regarding this Notice should be directed to the following contact person:

Nancy Hom, Senior Staff Counsel  
California Department of Insurance  
45 Fremont Street, 24th Floor  
San Francisco, CA 94105  
Telephone: (415) 538-4144  
E-mail: [homn@insurance.ca.gov](mailto:homn@insurance.ca.gov)

## SUBMISSION OF WRITTEN COMMENTS

All written comments on the additions to the rulemaking file must be received by the contact person, at her address as listed above, no later than **5:00 p.m. on May 9, 2008**.

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: [homn@insurance.ca.gov](mailto:homn@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of the contact person and sent to the following facsimile number: (415) 904-5729. **Comments sent to**

**other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.**

All written comments received by May 9, 2008 at 5:00 p.m. which pertain to the above listed additions to the rulemaking file will be reviewed and responded to as part of the compilation of the rulemaking file.

#### **AUTOMATIC MAILING**

A copy of this notice will automatically be sent to all persons who testified or submitted written comments at the public hearing, all persons whose comments were received during the public comment period, all persons who requested copies of information regarding the regulations, and all persons who requested notification of the availability of such changes.

STEVE POIZNER  
Insurance Commissioner

By: \_\_\_\_\_/s/  
Nancy Hom  
Senior Staff Counsel